



GOVERNMENT OF INDIA

# Chandigarh Administration Gazette

Published by Authority

NO. 133]

CHANDIGARH, THURSDAY, OCTOBER 27, 2022 ( KARTIKA 05, 1944 SAKA)

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

## Notification

The 3rd October, 2022

**No. 13/1/9894-HII(2)-2022/14571.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 22/2021 dated 13.08.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, U.T., Chandigarh between :

SHYAM DHARI S/O SHRI DEVKI, R/0 469/1, MALOYA COLONY, CHANDIGARH. (Workman)

AND

PAUL & PAL ENTERPRISES, PLOT NO.383, INDUSTRIAL AREA, PHASE -II, CHANDIGARH THROUGH ITS PROPRIETOR / OCCUPIER & MANAGER. (Management)

## AWARD

1. Shyam Dhari, workman has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman appointed by the management with effect from 02.06.1983 as CNC Operator with various benefits and commitments. The last drawn monthly wage of the workman is ₹ 7,900/-, which is less than notified wage rate. The management was entirely satisfied with his work and conduct. The management terminated the services of the workman on 23.03.2020 without giving any prior notice and conducting inquiry. The workman requested several times to the concerned officer to take him back but the management did not hear his genuine requests. There is gross violation of principles of natural justice. The management had not paid or offered notice pay in lieu of notice or compensation to the workman. Job of the workman exists as it is till date and the workmen junior to the workman are still retained in service by the management. The management has violated the provisions of Section 25-F, 25-G & 25-H and other provisions of the ID Act. The termination of services of the workman has badly disturbed the workman and his family as there is no other source of income. The management never provided or allowed wages to the workman according to the law. The workmen are entitled for fourteen days sick leave with wages, seven days casual leave, 15 days earned leave with wages annually. The management issue leave cards to the workmen. Even the management forced the workman to work on Sunday but no one penny is given to the workman for the over time work. It is a clear cut violation of The Minimum Wages Act on the part of the management. The management intentionally did not issue appointment letter, designation letter to the workman for concealing the date of appointment and service conditions. The management also intentionally did not issue attendance card to the workman. The workman had made complaint against

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the management for denying payment of wages and illegal termination of services of the workman before the Labour Inspector, Sector 30-B, Chandigarh but the management did not appear. The workman along with co-workers had submitted several requests for statutory benefits as unpaid wages, ESI and PF etc. but the management due to malafide intention targets those workmen who raise their voice against the management. Verbal termination order is illegal, unjustified, malafide and violation of all the other provisions of the ID Act. Prayer is made that termination order may be declared illegal and the workman be reinstated into service with continuity of service, full back wages and other applicable consequential benefits.

2. On notice, the management appeared through its Proprietor and contested the claim of the workman by filing written statement on 15.11.2021, wherein preliminary objections are raised on the ground that the present claim filed by the workman under the ID Act is highly misconceived. There is no relationship of employer-employees existed between the workman and the answering management. The workman has wrongly presented himself to be the employee of the answering management but as a matter of fact the workman is a retired old age person of 70 plus age and before nationwide lockdown imposed due to Covid-19, he was coming to the office of the management on part time basis to pass his time and the management is supporting him by giving some amount. After lifting of lock down Government instructed that old aged person above the age of 60 to remain at home and after few more days when the workman came to office of the management, the management enquired whether he has any permission to do work because his age is above 70 years. The workman did not submit any such permission to the management. Even the management pleaded before the Conciliation Authority that if the conciliation authority permit to engage 70 plus aged person, the management is ready to oblige.

3. On merits, it is stated that the workman was never engaged by the answering management. There is no question of paying him wages ₹ 7,900/- per month and termination of service and violation of principle of natural justice and violation of Section 25-F, 25-G & 25-H and other provisions of the ID Act. Remaining averments of the statement of claim are denied being wrong. Prayer is made that the claim of the workman be dismissed.

4. During the pendency of the present industrial dispute, the dispute was referred for determination to the National Lok Adalat held on 13.08.2022 and the parties have settled their dispute. On 13.08.2022, the workman made the statement, which was recorded separately and reproduced as below :—

*"Stated that I have settled my dispute with the management and have received Rs. 30,000/- (Rs. Thirty Thousand Only) in cash from the management towards full & final settlement of my claims and dues including the right of reinstatement. Now I have no claim whatsoever against the management. The present industrial dispute may be disposed off accordingly."*

5. Heard. In view of the above statement of the workman, the present industrial dispute is disposed off as settled by way of compromise. Appropriate Government be informed. File be consigned to the record room.

The 13th August, 2022.

(Sd.) . . . ,  
(JAGDEEP KAUR VIRK),  
PRESIDING OFFICER,  
Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.  
UID No. PB0152.

CHANDIGARH ADMINISTRATION  
LABOUR DEPARTMENT

**Notification**

The 3rd October, 2022

**No. 13/1/9517-HII(2)-2022/14559.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 72/2018, dated 29.08.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, U.T., Chandigarh between :

AMARJIT SINGH S/O LATE - S. HAKAM SINGH, RIO HOUSE NO.869, WARD NO.03, OPP. SUNNY ENCLAVE, MODEL TOWN ROAD, MUNDI KHARAR, P.O. KHARAR, DISTRICT MOHALI (PB) (Claimant-Workman)

AND

1. THE DAINIK BHASKAR CORPORATION LIMITED, 280, BHASKAR HOUSE, NEAR YMCA CLUB, MAKARBA, SARKHEJ-GANDHI NAGAR ROAD, AHMEDABAD 380051 (REGISTERED OFFICE).
2. THE DAINIK BHASKAR CORPORATION LIMITED, DAINIK BHASKAR, HEAD OFFICE, 6, PRESS COMPLEX, RAM GOPAL MAHESHWARI MARG, ZONE-1, MAHARANA PARTAP NAGAR, BHOPAL, M.P. (HEAD OFFICE) THROUGH ITS
  - (a) RAMESH CHANDER AGGARWAL, CHAIRMAN,
  - (b) SUDHIR AGGARWAL, MANAGER DIRECTOR,
  - (c) GARISH AGGARWAL, MANAGING DIRECTOR,
  - (d) PAWAN AGGARWAL, MANAGING DIRECTOR.
3. THE DAINIK BHASKAR CORPORATION LIMITED, PLOT NO.11-12, SECTOR 25, CHANDIGARH, THROUGH ITS ASSISTANT GENERAL MANAGER HR CPH2.
4. THE DAINIK BHASKAR CORPORATION LIMITED, DAINIK BHASKAR, PLOT NO.11-12, SECTOR 25, CHANDIGARH THROUGH ITS PUBLISHER.
5. THE DAINIK BHASKAR CORPORATION LIMITED, PLOT NO.11-12, SECTOR 25, CHANDIGARH THROUGH ITS FINANCE HEAD, REPORTING AUTHORITY OF THE CLAIMANT (Management)

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9517-HII(2)-2018/11492, dated 27.07.2018.

**AWARD**

1. *Vide* Endorsement No.13/1/9517-HII(2)-2018/11492 Dated 22.07.2018 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 26.12.2017 raised by Shri Amarjit Singh (*hereinafter in short referred "claimant-workman"*) raised by the upon The Dainik Bhaskar Corporation Limited & others (*hereinafter in short referred "management"*) under Section 17(1) of the Working Journalists & Other Newspaper Employees (Condition of Service) and Miscellaneous Act, 1955 (*hereinafter in short referred "the Act"*) in following words:-

*"Whether the arrears of revision of pay to Sh. Amarjit Singh, S/o late S. Hakam Singh, R/o House No. 869, Ward No. 03, Opp. Sunny Enclave, Model Town Road, Mundi Kharar, P.O. Kharar, District Mohali (PB.) (Applicant/Claimant) were to be paid by 1. The Dainik Bhaskar Corporation Limited, 280, Bhaskar House, near YMCA Club, Makarba, Sarkhej-Gandhi Nagar Road, Ahmedabad 380051 (Registered Office). 2. The Dainik Bhaskar Corporation Limited, Dainik Bhaskar, Head*



Office, 6, Press Complex, Ram Gopal Maheshwari Marg, Zone-1, Maharana Partap Nagar, Bhopal, M.P.(Head Office) through it's a) Ramesh Chander Aggarwal, Chairman, b) Sudhir Aggarwal, Managing Director, c) Garish Aggarwal, Managing Director, d) Pawan Aggarwal, Managing Director. 3) The Dainik Bhaskar Corporation Limited, Plot No.11-12, Sector 25, Chandigarh, through its Assistant General Manager, HR CPH2. 4. The Dainik Bhaskar Corporation Limited, Dainik Bhaskar, Plot No.11-12, Sector 25, Chandigarh through its and Publisher. 5. The Dainik Bhaskar Corporation Limited, Plot No.11-12, Sector 25, Chandigarh, through its Finance Head, Reporting authority of the claimant (respondents) according to the recommendations of the Majithia Wage Board and also as per the direction of the Hon'ble Supreme Court of India under The Working Journalists And Other Newspaper Employees (Conditions of Service) And Miscellaneous Provision Act, 1955 and in compliance of the orders dated 28.04.2015, 12.01.2016, 14.03.2016, 23.08.2016 passed by the Hon'ble Supreme Court of India in CCP No. 128/2015 and 129/2015 AND WP (Civil) 246/2011 dated 07.02.2014; if so, to what effect and to what relief he is entitled to, if any ?"

2. Upon notice, the claimant-workman appeared through its representative Shri Manjit Singh. Statement of claim was filed on 19.09.2018. Briefly stated the facts of statement of claim are that that the claimant-workman, Amarjit Singh joined Dainik Bhaskar on 11.04.2000 as a Reporter. Thereafter he was made Bureau Chief of SAS Nagar Mohali and was stationed at SAS Nagar Mohali since inception of Dainik Bhaskar at Chandigarh. The claimant was thereafter promoted as Deputy Editor and worked as such up to 15.11.2013, when the claimant resigned after rendering more than 13 years of service. At the time of resignation, the claimant was drawing last wages of ₹ 4,76,340/- per annum. The service conditions of the claimant were governed under the provisions of the Act, i.e. The Working Journalists & Other Newspapers (Condition of Service) and Miscellaneous Provisions Act, 1955. For condition of service and wages etc., the Central Government constituted the Wage Board under Section 9 and 13-C of the Act and Majithia Wage Board was constituted by the Central Government under the provisions of the Act. The Wage Board Commission submitted its recommendations to the Central Government on 31.12.2010 and thereafter a notification was issued by the Ministry of Labour and Employment on 11.11.2011. The employees of the respondent-Indian Express, including the claimant, are entitled to the benefits of the Majithia Wage Board notification w.e.f. 01.11.2011 as notified by the Central Government. The details of the category of the management under the said Wage Board Award is given and the details of the post of the claimant, as covered under the said award, is also given. The Majithia Wage Board was constituted by the Central Government under Section 10 of the Act and the report of the same was accepted by the Central Government and notified on 11.11.2011 under Section 12 of the said Act. Hence, the said award has a statutory force. The claimant is entitled to the benefits as granted under the said award. The said award has subsequently been upheld by the Hon'ble Supreme of India and specific directions for implementation of the same have been issued. The respondent-management along with several other newspapers especially ABP Private Limited and Others challenged the Majithia Wage Board recommendations / notification before the Hon'ble Supreme of India on various grounds instead of implementing the same. The Hon'ble Supreme Court of India finally dismissed the petition and issued specific directions for the release of benefits of the Majithia Wage Board notification vide its order dated 07.02.2014 within a period of one year w.e.f. 07.02.2014 along with arrears. The Hon'ble Supreme Court has considered all the contentions as raised before it in a bunch of Contempt of Court Petitions and vide its orders dated 19.06.2017 reaffirmed that the newspaper establishments are under obligations to pay the Majithia Wage Board Award. The remedy under Section 17 of the Act is prescribed and the employees can seek the benefits by filing such applications. So far as the case of the claimant is concerned, it is submitted that he has worked with respondent (DB Corporation) from 11.04.2000 to 15.11.2013. As per Majithia Wage Board Award, the respondent-management is bound to the arrears accordingly. The details of the claim of the claimant as drawn through the Expert Chartered Accountant Associates has been got worked out to the tune of ₹ 36,95,211/- as arrears payable to the claimant for the period the claimant remained in service of the respondent-management i.e. from 11.04.2000 to 15.11.2013. The respondent-management is liable to pay aforesaid ₹ 36,95,211/- to the claimant but it is being withheld by the respondent-management illegally and arbitrarily and they are liable to pay the same along with interest @ 18% per annum from the date of entitlement till the date of actual realization. Prayer is made that the directions may be issued to the respondent-management to pay the arrears of wages to the tune of ₹ 36,95,211/- along with interest at the rate of 18% per annum from the date of entitlement till the date of actual realization.

3. On notice, the respondent-management contested the claim application by filing written statement on 01.03.2019 wherein the preliminary objections are raised on the ground that this Hon'ble Authority has no jurisdiction to entertain the present claim as the claimant's last working place was Mohali (Punjab) and the claimant is also resident of Mohali. Besides, the claimant does not fall under the definition of workman as per Section 2(s) (ii) to (iv) of the Industrial Disputes Act, 1947 (*hereinafter in short referred 'ID Act'*). The claim statement is liable to be dismissed on account of mis-joinder of necessary parties, as the alleged, service rendered by the claimant with answering respondent-management i.e. Chief Manager, HR who has not been impleaded as party. The recommendations of the Majithia Wage Board were submitted to the Central Government on 31.12.2010 and the same was notified by the Government of India on 11.11.2011. The said recommendations were challenged by various media agencies by filing the writ petitions before the Hon'ble Supreme Court of India which were adjudicated upon in February 2014. It is admitted fact that the claimant had himself signed on 15.11.2013, which clearly shows that on the date of passing of judgment by the Hon'ble Supreme Court the claimant was no more employee of the answering respondent-management. As such, the claimant is not entitled to any such claim of arrears. The claimant has admitted the submissions of his resignation. The claimant has concealed the material fact that at the time of submission of his resignation he had accepted all the service benefits from the respondent-management and nothing remained pending / due. As such the claimant has no right to contest the present claim statement being not maintainable. The procedure under the same of the Act is that the aggrieved employee is required to first move an application before the State Government. As per Rule 36 of the Act such an application is required to be made in prescribed Form - C addressed to the Secretary to the State Government along with the details of the amount claim, preceded by a 15 days prior notice regarding payment to the concerned newspaper establishment. In the present case no such application along with the details of the amount claimed, much less in the prescribed performa is made to the Secretary of the State Government. No prior notice of 15 days was issued by the claimant as required under Section 36 of the ID Act. The statement of claim is time barred. The benefits are claimed for the period of 2012-13. The demand notice was received by the Assistant Labour Commissioner, U.T. Chandigarh in March 2018. It is well settled law that a civil suit does not lie after the expiry three years of the cause of action. As such the present claim statement is liable to be dismissed. The claimant had annexed the calculation sheet showing the turn over of the respondent-management only to get the benefit which cannot be decided in summary proceedings before this Tribunal. The basis of computation of the amount claimed has not been indicated and the identity of the person who has computed the said amount has not been revealed by the claimant. Hence, the same is liable to be dismissed being frivolous and baseless. The answering respondent-management do have the spirit to honour the judgment delivered by the Hon'ble Supreme Court but in the present case the claimant is not entitled to any benefit in compliance with the said judgment. Furthermore the statement of claim is not maintainable under Section 17 of the Act as no amount is due and further the amount has claimed is based on non-existing right.

4. Further on merits, similar stand is taken as taken in the preliminary objections. Rest of the averments of the statement of claim are denied as wrong and prayer is made the statement of claim may be dismissed with exemplary cost.

5. The claimant-workman filed replication, wherein the contents of written statement are denied as wrong except the admitted facts of the claim and the averments of the statement of claim are reiterated.

6. From the pleadings of the parties, following issues were framed *vide* order dated 27.03.2019:—

1. Whether the arrears of revision of pay to Shri Amarjit Singh were to be paid by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether this Court has no territorial jurisdiction to entertain the claim of Shri Amarjit Singh ? OPM
3. Whether Shri Amarjit Singh does not fall under the definition of 'workman' as defined under Section 2(s) of the ID Act ? OPM

4. Whether the claim of Shri Amarjit Singh is bad on the ground of mis-joinder of necessary party ? OPM
5. Whether the claim of Shri Amarjit Singh is time barred ? OPM
6. Whether the claim of Shri Amarjit Singh is not maintainable under the provisions of Section 17 of the Working Journalists & Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955 ? OPM
7. Relief.

7. In evidence claimant examined himself as AW1 and tendered his affidavit Exhibit 'AW' along with documents i.e. copy of appointment letter dated 07.04.2020 Exhibit 'AW1'; copy of receipt dated 21.12.2013 issued by the claimant regarding full & final settlement vide Exhibit 'AW2' and calculation of estimated gross salary of claimant as per Majithia Wage Board vide Exhibit 'AW3'. On 31.05.2019 the claimant closed the evidenced.

8. On the other hand, the management examined Ms. Aditya Dubey - Senior Manager (HR & Admin Head - CPH2), who tendered his affidavit Exhibit 'MW1/A' along with copy of his identity card *vide* Exhibit 'R1' and copy of his authorization letter *vide* Exhibit 'R2'. The management also examined MW2 Shri Vineet Rana - Senior Crime Reporter, who tendered his affidavit Exhibit 'MW2/A'. On 22.08.2022 learned representative for the management closed the evidence. In cross-examination of MW1, copy of resignation of the claimant dated 15.11.2013 *vide* Exhibit 'R3' and copy of receipt dated 21.12.2017 issued by the claimant regarding full & final settlement vide Exhibit 'R4'.

9. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise finding are as below:-

#### **Issue No.1 :**

10. Onus to prove issue No.1 is on the workman.

11. In order to prove his case, the claimant-workman Amarjit Singh examined himself as AW1 and *vide* his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto.

12. On the other hand, the management examined MW1 Aditya Dubey - Senior Manager (HR & Admin Head) Dainik Bhaskar who *vide* his affidavit Exhibit 'MW1/A', deposed all the material contents of the written statement and supported his oral version with Exhibit 'R1' and 'R2'.

13. From the oral as well as documentary evidence led by the parties, it comes out that undisputedly on 11.04.2000 the claimant joined the Dainik Bhaskar as Reporter. Thereafter, the claimant was made Bureau Chief of S.A.S. Nagar Mohali and was posted at S.A.S. Nagar Mohali since inception of Dainik Bhaskar at Chandigarh. The claimant was promoted as Deputy Editor and worked as such up to 15.11.2013. The claimant resigned in November 2013 and his resignation was accepted by the management. From receipt dated 21.12.2013 / Exhibit 'AW2' it is proved that after resignation the claimant Amarjit Singh received from DB Corporation Ltd. a sum of ₹ 81,650/- *vide* cheque No.296435 towards full & final settlement including notice and balance leave encashment. By executing receipt dated 21.12.2013 Exhibit 'AW2', the claimant Amarjit Singh confirmed that he has received entire dues from the DB Corporation Ltd. and after nothing is pending against the DB Corporation Ltd.

14. In the present case, the claimant is demanding arrears of wages as revised according to the recommendations of Majithia Wage Board for the period w.e.f. 11.11.2011 (date of notification of Central Government when the report of Majithia Board was accepted) to the date of tendering resignation i.e. 15.11.2013. On the date of issue or receipt dated 21.12.2013 / Exhibit 'AW2' of full & final payment, the recommendations of the Majithia Wage Board were already notified (i.e. w.e.f. 11.11.2011). At the time of tendering the resignation Exhibit 'R4' and issuing receipt of full & final payment / Exhibit 'AW2', the claimant did not reserve his right to claim the benefits of Majithia Wage Board. The receipt Exhibit 'AW2' was not issued under protest. This is not the case of the claimant that he was forced to tender resignation or that he was forced to issue receipt of full

& final payment under any threat or coercion. Therefore, the claimant is estopped from seeking the arrears of revised pay as calculated by the Chartered Accountant. The case law reported in **1996(3) SCT 597 titled as V. M. Gadre (Dead) by LR's Versus M.G. Diwan and 2005(8) SCC 49 titled as State of Uttaranchal Versus Jagpal Singh Tyagi** are applicable to the facts of the present case to an extent.

15. In view of the aforesaid discussion the claimant is not entitled to seek any arrears of revised pay.

16. Accordingly, this issue is decided against the claimant-workman and in favour of the management.

**Issue No.2 :**

17. Onus to prove this issue is on the management.

18. The management has taken the objection that this Court has no territorial jurisdiction to entertain and decide the present claim application on the ground that claimant was posted at S.A.S. Nagar Mohali and the claimant is resident of SAS Nagar Mohali. To my opinion aforesaid objection is not sustainable because the office of the Managing Director of Dainik Bhaskar Corporation Ltd. is at Bhopal, M.P. and the office of Sub-Editor and General Manager, HR of Dainik Bhaskar Corporation is at Sector 25-D, Chandigarh. The claimant is competent to seek remedy at Chandigarh where the office of Sub-Editor and General Manager HR of Dainik Bhaskar situates.

19. Accordingly, this issue is decided against the management and in favour of the claimant-workman.

**Issue No. 3 :**

20. Onus to prove this issue is on the management.

21. Learned representative for the management argued that the nature of work assigned to the claimant was supervisory which does not fall within the definition of 'workman' as envisaged in Section 2(s) of the ID Act. In support of his contention, learned representative for the management referred cross-examination of AW1 Amarjit Singh wherein he has stated that he has read over the recommendations of the Majithia Wage Board. It is correct that designation of Deputy Editor is different from Sub-Editor. AW1 admitted as correct that Deputy Editor is higher level post. His designation of Deputy Editor is not mentioned in any of the group of recommendation of Majithia Wage Board issued by the Government of India. AW1 admitted as correct that he was having about 8-10 subordinate employees with him while working as Deputy Editor. AW1 denied the suggestion as wrong that since the year 2013, he was acting in supervisory capacity but he admitted as correct that he has already stated about 8 to 10 persons were working under him as his duties goes on changing with regard to place of posting. In order to support its plea that the claimant was acting in supervisory capacity, the management has examined MW2 Vineet Rana, who *vide* his affidavit Exhibit 'MW2/A' deposed that he is working with the management i.e. DB Corporation Ltd., since June, 2010 and joined as Crime Reporter in Chandigarh Office. He was transferred at Mohali office in the year 2017 and Mr. Amarjit Singh was his reporting authority. Not only he but other employees are also reporting to Amarjit Singh. He (deponent) served under the claimant Mr. Amarjit Singh for about 4-5 months prior to presentation of resignation in November, 2013. Thereafter, Mr. Manoj Joshi remains his reporting authority, who joined in placed of Amarjit Singh. During the service tenure of 4-5 months in the year 2013 he (deponent) had worked with the utmost care and caution as well as with complete satisfaction of his immediate Boss i.e. Amarjit Singh.

22. On the other hand, learned representative for the claimant-workman failed to controvert the testimony of MW2. MW2 has categorically stated that Mr. Amarjit Singh was his reporting authority but not only he but other employees are also reporting to Amarjit Singh. Testimony of MW2 has remained unchallenged and un-rebutted as despite availing opportunity learned representative for the claimant-workman did not conduct his cross-examination and opportunity given to the claimant was recorded as Nil. It is settled law that the version of witness which is not controverted in his cross-examination is deemed to be admitted. Accordingly, the claimant who was performing supervisory duties does not fall within the definition of 'workman' as defined under Section 2(s) of the ID Act.



23. Accordingly, this issue is decided in favour of the management and against the claimant-workman.

**Issue No. 4 :**

24. Onus to prove this issue is on the management.

25. The management has raised preliminary objection that that the claim statement is liable to dismissed on account of mis-joinder of necessary party, as alleged service rendered by the claimant with Chief Manager, H.R., who has not been impleaded as party. As per law the necessary party is that, without impleading whom the case cannot be adjudicated upon in just and legal manner. The management has failed to explain how its interest is prejudice by non-joining Chief Manager HR. Learned representative for the management failed to point out as to which party has been mis-joined in the reference or claim statement.

26. Accordingly, this issue is decided against the management and in favour of the claimant-workman.

**Issue No. 5**

27. Onus to prove this issue is on the management.

28. The present claim has been filed to recover arrears of revised pay, which is recurring cause of action and bar of limitation does not apply.

29. Accordingly, this issue is decided against the management and in favour of the claimant-workman.

**Issue No. 6**

30. Onus to prove this issue is on the management.

31. During the course of arguments learned representative for the management has not pressed this issue.

32. Accordingly, this issue is decided against the management and in favour of the claimant-workman.

**Relief :**

33. In the view of foregoing finding on the issues above, this reference is declined and answered against the claimant-workman. Appropriate Government be informed. File be consigned to the record room.

Dated 16th August, 2022.

(Sd.) . . . ,  
(JAGDEEP KAUR VIRK),  
PRESIDING OFFICER,  
Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.  
UID No. PB0152.

Secretary Labour,  
Chandigarh Administration.

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